

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6688

Interconnection Agreement between Verizon New)
England Inc., d/b/a Verizon Vermont, and ICG)
Telecom Group, Inc.)

Order entered: 7/17/2002

ORDER APPROVING INTERCONNECTION AGREEMENT

I. BACKGROUND

On April 22, 2002, ICG Telecom Group, Inc. ("ICG") and Verizon New England Inc., d/b/a Verizon Vermont ("Verizon"), requested that, pursuant to Section 252(e) of the Telecommunications Act of 1996 (the "Act"), the Vermont Public Service Board ("Board") approve the adoption of the Interconnection Agreement as negotiated between ICG and Verizon California Inc., f/k/a GTE California Inc. ("Verizon California"), that was approved as an effective agreement by the California Public Utilities Commission.

On May 3, 2002, the Board solicited a recommendation from the Vermont Department of Public Service ("Department"). The Department, by letter dated May 24, 2002, recommended that the Board approve the Agreement in whole, finding that the Interconnection Agreement did not violate Section 252 of the federal Telecommunications Act of 1996 and that the Agreement did not contain terms that will harm Vermont consumers or competitors.

II. DISCUSSION

The Board's review of the Interconnection Agreement is governed by the federal law that authorizes such agreements. Under Subsection 252(a) of the Act, any interconnection agreement negotiated under Section 252(a) must be submitted to the State commission for review under Section 252(e).¹ The State commission has the authority to "approve or reject the agreement, with written findings as to any deficiencies." The Board may not reject the proposed

¹Under the Act, the Board is the "State Commission" in Vermont. 47 U.S.C.A. § 3(41).

Interconnection Agreement in whole or in part unless it finds that the agreement or any material portion thereof discriminates against a non-party carrier or is inconsistent with the public interest. The Board may also establish and enforce other requirements of State law in its review of the agreement under Section 252(e)(3). The Board must act to approve or reject the agreement within 90 days of its submission, or the agreement is deemed approved.² The 90-day review period mandated by that section ends on July 22, 2002.

The Interconnection Agreement adopted by Verizon and ICG sets out the terms and conditions under which Verizon will make certain services available to ICG. In particular, the Agreement specifies the terms and conditions for resale of Verizon's services, purchasing of unbundled network elements, types of interconnection and collocation agreed to, and compensation arrangements that will apply.³ The parties state that the new Interconnection Agreement ("Agreement"), adopting the ICG/Verizon California Agreement, shall become effective as of March 29, 2002. The initial term of the Agreement is scheduled to expire on June 20, 2004, although it will remain in force and effect until terminated by either party, upon written notice of at least 90 days.⁴

The Interconnection Agreement is the result of arms-length negotiations between two telecommunications carriers. The Board's focus, as the Act provides, is therefore limited to the issues set forth in Section 252(e)(2)(A): whether the Agreement (or portions thereof) discriminates against a telecommunications carrier not a party to the Agreement, and whether the Agreement is consistent with the public interest, convenience, and necessity. As the Board concluded previously, in making its determination, the Board must focus upon the potential effect of the Agreement on the evolution of competition in this state and whether the Agreement raises the risk of harm to consumers (and thus is not consistent with the public interest).⁵

The competition enabled by this and other interconnection agreements will likely benefit Vermont consumers and is consistent with the State's telecommunications goals as set out in

²47 U.S.C. § 252(e)(4).

³ICG/Verizon CA Agreement at 54-116 and Appendix A to the Pricing Attachment.

⁴ICG/Verizon CA Agreement at 1.

⁵Docket 5905, Order of 11/4/96 at 12.

30 V.S.A. § 202c and the Telecommunications Plan adopted under Section 202d. At the same time, the Agreement does not contain terms that will harm consumers or competitors. It thus promotes the public interest.

The Agreement also does not discriminate against telecommunications carriers who are not a party to it. Pursuant to 47 U.S.C. § 252(i), other companies seeking to interconnect may adopt the same terms and conditions.

Finally, our approval of the Interconnection Agreement applies only to those terms and conditions set out therein. To the extent parties negotiate modifications or clarifications to the Agreement, they are not subsumed in our approval of the current Agreement. To the extent the changes are material, the parties will need to seek additional approvals from the Board.

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to Section 252(e)(1) of the Telecommunications Act of 1996, the Interconnection Agreement between Verizon New England Inc., d/b/a Verizon Vermont, and ICG Telecom Group, Inc., is hereby approved.

2. Verizon and ICG shall be bound to comply with any lawful requirement imposed by the Board in Docket 5713, Docket 5903, any docket or rule established with respect to E-911 service, and any other docket or rulemaking proceeding governing the obligations of telecommunications carriers in Vermont.

3. Verizon and ICG shall notify the Board and Department of any modifications to the Interconnection Agreement or the establishment of any terms and conditions that the Interconnection Agreement as filed leaves to further negotiations. If necessary, Verizon and ICG shall seek Board approval for the new or changed terms and conditions.

Dated at Montpelier, Vermont, this 17th day of July, 2002.

<u>s/Michael H. Dworkin</u>)	PUBLIC SERVICE
)	
)	BOARD
<u>s/David C. Coen</u>)	
)	OF VERMONT
)	
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: July 17, 2002

ATTEST: s/Susan M. Hudson
Clerk of the Board

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.